

117TH CONGRESS  
1ST SESSION

# H. R. 5319

To amend the Immigration and Nationality Act to provide for certain fee waivers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2021

Mrs. TORRES of California (for herself, Ms. MENG, Mr. TAKANO, Ms. NORTON, Ms. CHU, Mr. JONES, Mr. GRIJALVA, Ms. VELÁZQUEZ, Mr. CÁRDENAS, Mr. McGOVERN, Mrs. CAROLYN B. MALONEY of New York, Ms. OCASIO-CORTEZ, Mr. GOMEZ, Mr. SOTO, Mr. ESPAILLAT, Mr. VARGAS, and Mr. GARCÍA of Illinois) introduced the following bill; which was referred to the Committee on the Judiciary

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# A BILL

To amend the Immigration and Nationality Act to provide for certain fee waivers, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*

2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Reduce Financial Bar-

5       riers to Immigration and Citizenship Act of 2021”.

1   **SEC. 2. LIMITATION ON USE OF FEES.**

2       (a) IN GENERAL.—Section 286 of the Immigration  
3     and Nationality Act (8 U.S.C. 1356) is amended by strik-  
4     ing subsection (m) and inserting the following:

5               “(1) IN GENERAL.—Notwithstanding any other  
6     provisions of law, all adjudication fees shall be de-  
7     posited as offsetting receipts into a separate account  
8     entitled ‘Immigration Examinations Fee Account’ in  
9     the Treasury of the United States, whether collected  
10    directly by the Attorney General, Secretary of  
11    Homeland Security: *Provided, however,* That all fees  
12    received by the Attorney General from applicants re-  
13    siding in the Virgin Islands of the United States,  
14    and in Guam, under this subsection shall be paid  
15    over to the treasury of the Virgin Islands and to the  
16    treasury of Guam.”.

17       (b) LIMITATION ON TRANSFER OF FEES.—Section  
18  286(n) of the Immigration and Nationality Act (8 U.S.C.  
19  1356(n)) is amended by striking the period at the end  
20  and inserting: “. *Provided, however,* That funds within the  
21  ‘Immigration Examinations Fee Account’ shall be used by  
22  the U.S. Citizenship and Immigration Services, or a suc-  
23  cessor agency to which its duties are transferred, to solely  
24  to fund the adjudication and administration of immigra-  
25  tion benefits and naturalization.”.

1   **SEC. 3. REQUIRED FEE WAIVERS FOR CERTAIN APPLICA-**

2                   **TIONS AND PETITIONS.**

3       (a) IN GENERAL.—Section 286 of the Immigration  
4 and Nationality Act (8 U.S.C. 1356) is amended by add-  
5 ing at the end of subsection (m) the following:

6               “(3) FEES.—That fees for providing adjudica-  
7 tion and naturalization services described in para-  
8 graph (2) may be set at a level that will ensure re-  
9 covery of the costs of providing all such services, in-  
10 cluding the costs of similar services provided without  
11 charge to applicants described in paragraphs (4) and  
12 (5). Such fees may also be set at a level that will  
13 recover any additional costs associated with the ad-  
14 ministration of the fees collected.

15               “(4) PROHIBITIONS.—The Secretary of Home-  
16 land Security may not impose a fee with respect to  
17 the filing of the following immigration application or  
18 petitions (and any associated applications, petitions,  
19 information collections or appeals)—

20               “(A) an application for asylum and related  
21 relief;

22               “(B) an application or petition filed for  
23 refugee status;

24               “(C) a petition for status as a special im-  
25 migrant juvenile and any subsequent applica-  
26 tions filed by a special immigrant juvenile;

1                 “(D) a petition for U non-immigrant sta-  
2                 tus under section 101(a)(15)(U)(ii)(I), and re-  
3                 lated applications, including advance parole,  
4                 employment authorization, derivative petitions  
5                 adjustment of status, and waivers;

6                 “(E) a self-petition filed by a spouse, child  
7                 or parent of an abusive U.S. citizen under  
8                 VAWA, and applications filed by those with ap-  
9                 proved self petitions under VAWA;

10                 “(F) an application for T non-immigrant  
11                 status under section 101(a)(15)(T);

12                 “(G) a petition for a special immigrant  
13                 visa for an individual who is an Afghan or Iraqi  
14                 national and was or is employed by or on behalf  
15                 of the United States Government;

16                 “(H) an application for a fee waiver pursu-  
17                 ant to paragraph (5) of this section; and

18                 “(I) any other petition or application the  
19                 Secretary determines to be in the public inter-  
20                 est.

21                 “(5) FEE WAIVER BASED ON AN INABILITY TO  
22                 PAY.—

23                 “(A) IN GENERAL.—The Secretary of  
24                 Homeland Security shall waive fees with respect  
25                 to the filing of an immigration application or

1 petition (and any associated application, peti-  
2 tion, information collection and appeal) for an  
3 alien who demonstrates to the satisfaction of  
4 the Secretary that such alien—

5 “(i) is the recipient of a means-tested  
6 benefit where the Federal, State, or local  
7 agency administering such public benefit  
8 considers the income and resources of the  
9 individual in granting such benefit;

10 “(ii) has an income is no greater than  
11 250 percent of the Federal poverty guide-  
12 lines; or

13 “(iii) faces extraordinary financial  
14 hardship that prevents them from paying  
15 the filing fee.

16 “(B) CORRECTIVE FILING.—If the Sec-  
17 retary finds that an applicant is ineligible for a  
18 fee waiver under this subparagraph, the Sec-  
19 retary shall notify applicants of the basis for  
20 such ineligibility, and allow applicants 90 days  
21 from the date on which the Secretary provides  
22 such notice to submit additional evidence of eli-  
23 gibility. Such applicant shall retain the original  
24 filing date of the application or petition associ-  
25 ated with the fee waiver.

1                 “(C) EXCEPTIONS.—This section shall not  
2                 apply to petitions seeking classification under  
3                 section 203(b)(1)(A)–(C), (b)(2)(A)–(C),  
4                 (b)(3)(A)–(C), and (b)(5)(A)–(D) of this Act or  
5                 petitions filed by employers pursuant to section  
6                 214(C) of this Act.

7                 “(D) FEDERAL POVERTY GUIDELINES.—  
8                 The term ‘Federal poverty guidelines’ has the  
9                 meaning given such term by the Director of the  
10                 Office of Management and Budget, as revised  
11                 annually by the 18 Secretary of Health and  
12                 Human Services in accordance with section  
13                 673(2) of the Omnibus Budget Reconciliation  
14                 Act of 1981 (42 U.S.C. 9902(2)).

15                 “(E) PUBLIC CHARGE.—

16                 “(i) FINDING OF PUBLIC CHARGE.—  
17                 Receipt of an application for a fee waiver  
18                 under this section shall not be considered  
19                 in a public charge determination pursuant  
20                 to section 212(a)(4) or section 237(a)(5).

21                 “(ii) SPONSORS.—Receipt of or appli-  
22                 cation for a fee waiver by the sponsor of  
23                 an immigration petition shall not be con-  
24                 sidered as a factor in consideration of an  
25                 affidavit of support filed by the sponsor.”.

1       (b) BACKLOG REDUCTION.—There is authorized to  
2 be appropriated \$500,000,000 to U.S. Citizenship and Im-  
3 migration Services in order to streamline processing of ap-  
4 plications or petitions granted a fee waiver.

5 **SEC. 4. STUDY AND REPORTS ON FEE INCREASES.**

6       (a) REPORT TO CONGRESS.—Not later than 60 days  
7 prior to a notice of proposed rulemaking with respect to  
8 an increase in fees for an application for an immigration  
9 petition or benefit, the Secretary of Homeland Security  
10 shall submit a report to Congress including—

11              (1) evidence that U.S. Citizenship and Immi-  
12 gration Services has engaged in cost-cutting meas-  
13 ures prior to an increase in such fees;

14              (2) evidence that the decision to increase fees  
15 shall not negatively affect the economic and social  
16 benefits of immigration; and

17              (3) the balance of the Immigration Examina-  
18 tions Fee account under section 286(m) of the Im-  
19 migration and Nationality Act (8 U.S.C. 1356(m)),  
20 any restrictions on the expenditure of funds therein,  
21 projections of future incoming revenue, and the in-  
22 formation and methods used to produce each of  
23 these calculations.

24       (b) GAO STUDY AND REPORT.—Not later than 180  
25 days after the date of the enactment of this Act, the

1 Comptroller General of the United States shall carry out  
2 a study to analyze U.S. Citizenship and Immigration Serv-  
3 ices expenditures and the use of fees collected for each  
4 immigration petition or benefit to determine if such fees  
5 are used efficiently and submit a report on such study.

